

FILED WITH LRC TIME: <u>11 a.m.</u> OCT 15 2013 <i>Donna Little</i> REGULATIONS COMPILER
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1 **Education and Workforce Development Cabinet**

2 **Kentucky Board of Education**

3 **Department of Education**

4 **(Repealer)**

5 **702 KAR 6:101. Repeal of 702 KAR 6:100, Appeal procedures for nutrition and health**
6 **services.**

7 RELATES TO: 42 U.S.C. 1761, 1766(e), 1772

8 STATUTORY AUTHORITY: KRS 156.070(5), KRS 156.160, 7 C.F.R. 210.18(q), 215.11,
9 220.13(f)(2), 225.13, 226.6(k)

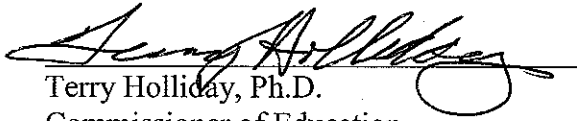
10 NECESSITY, FUNCTION, AND CONFORMITY: The U.S. Department of Agriculture requires
11 the Department of Education's Division of School and Community Nutrition to have policies and
12 procedures for appeals under nutrition programs, compliant with the federal regulatory
13 requirements. Kentucky had incorporated the federal appeals process, set forth in federal law, in
14 state administrative regulation 702 KAR 6:100. Kentucky appeal procedures for the child and
15 adult nutrition programs, as incorporated into 702 KAR 6:100, do not include all of the federal
16 regulatory requirements. In order to conform to 7 CFR 210.18(q); 215.11; 220.13(f)(2); 225.13;
17 226.6(k), the repeal of 702 KAR 6:100 is necessary. This administrative regulation repeals 702
18 KAR 6:100.

19 Section 1. The following administrative regulation is hereby repealed:


20 (1) 702 KAR 6:100, Appeal procedures for nutrition and health services programs.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

10-15-13
(Date)


Terry Holliday, Ph.D.
Commissioner of Education

10-15-13
(Date)


Roger Marcum, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on November 25, 2013, at 2:00 p.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky.

Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through close of business December 2, 2013. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 702 KAR 6:101

Agency Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administration regulation repeals 702 KAR 6:100 which established state level appeal procedures for nutrition and health services programs. The federal regulations already provide the appeal procedures for nutrition programs in all states. In place of a state administrative regulation, the agency's Division of School and Community Nutrition will provide guidance consistent with 7 CFR 210.18(q); 215.11; 220.13(f)(2); 225.13; 226.6(k) for appeals under child and adult nutrition programs.

(b) The necessity of this administrative regulation: 702 KAR 6:100 conflicts with the federal regulations that govern child and adult nutrition programs and their appeal procedures. The repeal of 702 KAR 6:100 will address and remedy this federal law compliance issue.

(c) How this administrative regulation conforms to the content of the authorizing statute: No state statute requires a state administrative regulation for federal child and adult nutrition program appeals procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Not applicable.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not applicable.

(b) The necessity of the amendment to this administrative regulation: Not applicable.

(c) How the amendment conforms to the content of the authorizing statute: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will apply to: School districts, participants, and sponsors in the federal child and adult nutrition programs.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: This repeal will end the current state and federal law conflict and ensure future conflicts do not arise.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No additional costs.

(b) On a continuing basis: No additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the regulation is being repealed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 702 KAR 6:101
Contact Person: Kevin C. Brown
Phone number: 502/564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? School districts, participants, and sponsors in the federal child and adult nutrition programs.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 7 CFR 210.18(q); 215.11; 220.13(f)(2); 225.13; 226.6(k).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? The proposed regulation will require no additional cost.

(d) How much will it cost to administer this program for subsequent years? The proposed regulation will require no additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: